

# FISCAL NOTE

**Bill #: SB0482**

**Title: Require licensure for mortgage lending**

**Primary**

**Sponsor: Ken Mesaros**

**Status: As introduced**

Sponsor signature	Date	Dave Lewis, Budget Director	Date
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## Fiscal Summary

	<b><u>FY2000 Difference</u></b>	<b><u>FY2001 Difference</u></b>
<b>Expenditures:</b>		
State Special Revenue	\$127,020	\$116,755
<b>Revenue:</b>		
State Special Revenue	\$160,000	\$97,500
<b>Net Impact on General Fund Balance:</b>	<b>\$0</b>	<b>\$0</b>

<b><u>Yes</u></b>	<b><u>No</u></b>		<b><u>Yes</u></b>	<b><u>No</u></b>	
	<b>X</b>	Significant Local Gov. Impact	<b>X</b>		Technical Concerns
	<b>X</b>	Included in the Executive Budget		<b>X</b>	Significant Long-Term Impacts

## Fiscal Analysis

### ASSUMPTIONS:

Department of Commerce Banking & Financial Institutions Division:

1. Licenses will be issued to entities, not to each office operated by the entity.
2. There will be 275 entities licensed: 200 during FY 2000 and 75 additional during FY 2001. There are approximately 66 entities qualifying for licensure under SB 482 that presently are licensed by the department under the Montana Consumer Loan Act because of second mortgage lending activities. Only 4 of the 86 entities in assumption 4 below are licensed under the Montana Consumer Loan Act. Mortgage loan brokers have not been eligible for a consumer loan license. Entities engaged only in first mortgage lending, many of which are located out of state and do business through the mail or over the telephone, are not eligible for a consumer loan license.

(continued)

3. Entities currently licensed under the Consumer Loan Act would no longer be subject to the provisions of that act.
4. There will be 120 licensees with physical locations in Montana. Recent yellow page listings show at least 86 individual entities have physical locations in major Montana cities and appear to qualify for licensure.
5. Licensees that have no Montana location will be examined by the states in which they are physically located. Montana will pay an average of \$350 for the conduct of those examinations and will pay the fee 25 times per year.
6. It is estimated that 3.00 FTE would be required to perform the duties mandated by SB482. Also 1.50 FTE, grade 10, would be required for issuing and maintaining licenses, processing reports, and handling complaints. Additionally, 1.50 FTE, grade 14, would be required for reviewing licensing applications, investigating complaints, and performing examinations. Estimated personal services expenses would be \$83,005 annually.
7. Operating expenses for examiner travel, office rent, other states examination reports, printing, supplies and materials, initial rulemaking, and overhead is estimated at \$44,015 in FY 2000 and \$33,750 in FY 2001.
8. Companion bills for electorate approval of the changes are SB 483, SB 484 and SB 485.

FISCAL IMPACT:

	FY2000	FY2001
<b>Dept of Commerce</b>	<u>Difference</u>	<u>Difference</u>
FTE	3.00	3.00

Expenditures:

Personal Services	\$83,005	\$83,005
Operating Expenses	<u>\$44,015</u>	<u>\$33,750</u>
TOTAL	\$127,020	\$116,755

Funding:

State Special Revenue (02)	\$127,020	\$116,755
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Revenues:

State Special Revenue (02)	\$160,000	\$97,500
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Net Impact to Fund Balance (Revenue minus Expenditure):

State Special Revenue (02)	\$32,980	(\$19,255)
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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None noted, although a new licensing requirement could potentially cause some businesses to close their doors, reducing local revenues in the form of local business licenses and personal property taxes.

LONG-RANGE IMPACTS:

There would be more responsiveness to Montana consumers who have problems with real estate mortgage lenders or brokers.

**TECHNICAL NOTES:**

1. Section 6 (4) isn't clear as written. It should state: "an investigation of the undertakings and representations required by [section 9], which must allow the department to issue positive findings stating that the financial responsibility, criminal records (verified by fingerprint) experience, character, and general fitness of the applicant and the members thereof, if the applicant is a partnership or association, and of the principal officers and directors thereof, if the applicant is a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly and efficiently within the purposes of [sections 1 through 25]."
2. Section 12 states that a licensee shall maintain a \$50,000 bond. Section 17 provides for a \$25,000 bond. The language in Section 12 regarding the bond should be deleted and Section 17 should be amended to \$50,000.
3. Section 19 provides for a copy of rules to be mailed to licensees at least 15 days in advance of its effective date. The department would not have a copy of an effective rule in time to meet this requirement. The sentence should be amended to read, "A copy of every rule, as published, must be mailed to each licensee at least 15 days in advance of its effective date."
4. The bill is unclear as to whether licenses will be issued to an entity or a location. If licenses are issued to entities and they are permitted to branch, revenues may not be sufficient for the program to fund itself. A branch fee should be contemplated if entities only are licensed.
5. Section 20 allows the department to accept an examination produced by another state's regulatory authority. There are no provisions to allow the department to pay for a report issued by another state if it were charged for one. There are no provisions to pass such cost on to the licensee in lieu performing our own examination. Both should be permitted, since such costs almost certainly would be less than sending Montana employees to the other state to perform the examination.
6. Section 20 allows the department to accept an examination from an out-of-state agency, but doesn't allow the department to reciprocate. The language in subsection 5 should be amended to allow the department to share its examination report with an out-of-state regulatory authority.
7. A state special revenue account needs to be established for the department to use in its supervisory and examination function.

**DEDICATION OF REVENUE:**

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)

Customers of mortgage lenders would benefit from state regulation and consumer protection. The Department is proposing that amendments be considered which would allow for the creation of a state special revenue account that would be used to separately account for program receipts and expenditures.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

By placing the proceeds of this proposed legislation into a state special revenue account the Legislature is assured that the program is enacted and working as intended and that fees are commensurate with program costs.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended?   X   Yes        No (if no, explain)

- d) Does the need for this state special revenue provision still exist?   X   Yes        No (Explain)

As long as the Legislature mandates a mortgage lending regulation program the need for a state special revenue fund would exist.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)

No, the establishment of a SSR will not hinder the legislature's ability to scrutinize budgets, control expenditures or establish priorities. A SSR account will assist in each of these items.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)

Yes, provided the Legislature would continue to mandate a mortgage lending regulation program the need for a state special revenue fund would exist.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

A dedicated revenue provision would provide accounting efficiencies within the Department of Commerce. It would allow for the quick and accurate analysis of how effective and efficient the mortgage lending regulation program is. If this proposal were to be funded through the general fund it would be much more difficult to determine program effectiveness and efficiency.